

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Newport News Division

UNITED STATES OF AMERICA)	
)	
v.)	Case No. 4:24-mj-3
)	
FENGYUN SHI,)	
)	
Defendant.)	

JOINT MOTION TO CONTINUE TRIAL

The United States, by counsel, Jessica D. Aber, United States Attorney, and Peter Osyf, Assistant United States Attorney, along with the defendant, by and through counsel, Mr. Shaoming Cheng, respectfully move this Honorable Court to continue the trial of this matter. In support of this motion, the parties represent as follows:

1. The defendant is before the Court having been named in a six-count Superseding Criminal Information, filed February 1, 2024, charging three counts of Unlawful Photographing of Designated Installation Without Authorization, in violation of 18 U.S.C. § 795 (Counts 1, 2, & 3); and three counts of Use of Aircraft for the Unlawful Photographing of Designated Installation Without Authorization in violation of 18 U.S.C. § 796 (Counts 4, 5, & 6). ECF No. 9.

2. On January 19, 2024, the defendant was arrested in the Northern District of California, was released on bond, and directed to appear in the Eastern District of Virginia, where he made his initial appearance on February 1, 2024. ECF No. 11.

3. A bench trial was set for March 25, 2024, seventeen (17) days before defendant's speedy trial cutoff date.

4. Both parties wish to resolve this case by plea agreement. On Thursday, March 14,

2024, undersigned counsel for both parties conferred telephonically and, after discussing the case in detail, agreed that the interests of justice and the defendant warrant a continuance to achieve a fair and just resolution.¹

5. The parties respectfully submit that the ends of justice are served by granting a continuance of the trial for approximately sixty (60) days from the original date of March 25, 2024, and that such action outweighs the best interests of the public and the defendant in a speedy trial in accordance with the Speedy Trial Act.

6. Pursuant to 18 U.S.C. § 3161(h)(7)(B)(ii), this case is “unusual” “due to the nature of the prosecution” and also presents some “novel questions of fact or law” that reasonably require additional time to prepare for pretrial proceedings and plea negotiations.

7. Moreover, failure to grant this continuance would likely result in a miscarriage of justice. 18 U.S.C. § 3161(h)(7)(B)(i).

Conclusion

Proceeding in this case without sufficient time to thoroughly navigate its unique nature and facts, and potential consequences therefrom, threatens a miscarriage of justice. A continuance, however, upholds the best interests of justice; protects the rights of the defendant; and does not prejudice or unduly burden the defendant in any way as he remains on pretrial release, has been advised of and willingly acknowledged his speedy trial rights, and does not object to his trial being set outside of speedy trial. In fact, defendant joins in this Motion to Continue Trial.

¹ The parties are amenable to providing additional details to the Court if necessary to grant this motion. If the Court requires such additional information, the parties request an *in-camera* conference in lieu of a hearing.

WHEREFORE, the parties respectfully move this Honorable Court for the entry of an Order in accordance with this motion.

Respectfully submitted,

Jessica D. Aber
United States Attorney

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CERTIFICATE OF SERVICE

I certify that on March 14, 2024, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing to all counsel of record.

By: /s/
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